



City of Harrisonburg, Virginia

Department of Planning & Community Development

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Building Inspections
Engineering
Planning & Zoning

To: Eric Campbell, City Manager
From: Adam Fletcher, Director - Department of Planning and Community Development
Date: June 12, 2019 (Regular Meeting)
Re: Zoning Ordinance Amendment – Modify Civil Penalties and Remove Registration Requirements for Short-Term Rentals

Summary:

Public hearing to consider modifying the Zoning Ordinance Section 10-3-13 Penalties and to remove requirements for short-term rental operators to annually register the use and to pay a registration fee as described in Section 10-3-204.

Background:

On March 26, 2019, City Council adopted new Zoning Ordinance regulations associated with short-term transient lodging commonly referred to as “Airbnbs,” which is associated with the webservice www.airbnb.com. Although known as Airbnbs, operators may use other services including but not limited to VRBO, HomeAway, and FlipKey to advertise their properties. These operations, unless previously approved by the City as a bed and breakfast, have been illegal in the City of Harrisonburg. A short-term rental (STR) is defined as “[t]he provision of a dwelling unit, a bedroom or accommodation space within the dwelling unit, or any accessory building that is suitable or intended for transient occupancy for dwelling, sleeping, or lodging purposes and is offered in exchange for a charge for the occupancy.”

City Council granted a grace period where enforcement of the ordinance would not occur until August 1, 2019. Therefore, while staff has sent notices to property owners who have been identified as operating a STR without an approved SUP, no violations will be issued until August 1.

Key Issues:

Staff proposes two amendments related to short-term rental (STR) regulations. The first is to amend the Zoning Ordinance (ZO) Section 10-3-13 Penalties and the second is to remove the requirements for STR operators to annually register the use and pay a registration fee as currently described in Section 10-3-204.

Section 10-3-13 Penalties specifies the penalties for violations of the ZO. Currently, this section states that operating a STR in violation of Section 10-3-205 shall be punishable by a civil penalty. Section 10-3-205 currently reads as follows:

Sec. 10-3-205. – General regulations.

- (1) Lodging contracts shall be limited to a period of fewer than 30 consecutive nights.
- (2) Any food service offered shall be limited to guests.
- (3) Short term rentals shall have the dates for trash and recycling collection posted prominently.
- (4) Short term rentals shall not be marketed and used for weddings, receptions, or events, unless approved, and as may be conditioned during the special use permit process.

(5) Operators shall comply with the Uniform Statewide Building Code and Virginia Statewide Fire Prevention Code.

The proposed amendment would eliminate the reference to Section 10-3-205 and replace it with the phrase “the Zoning Ordinance” so that any STR operating in violation of the ZO, including, but not limited to, operating without an approved SUP, not providing the required minimum off-street parking requirements, and not meeting conditions placed on the approved SUP shall all be punishable by a civil penalty. Section 10-3-13(2)a.i. would be amended as follows:

Operating a short-term rental in violation of ~~Section 10-3-205~~ [the Zoning Ordinance](#).

The second amendment proposed by staff is to remove all of Section 10-3-204, which is associated with the registration of the STR operation. Presently, Section 10-3-204 requires STR operators to annually register the use and to pay an annual registration fee of \$50. One of the initial reasons for establishing the annual registration process was to track and maintain the number of legally operating STRs in the City. Since the City’s STR regulations ended up requiring that all STR operators obtain a one-time SUP for properties on which they want to operate, and because STR operators are required to obtain an annual business license from the Commissioner of Revenue’s Office, staff believes future inquiries into the number of legally operating STRs can be gathered through existing processes and systems and that an annual registration is not necessary. Had the ordinance allowed some type of STR operation as a by right use, a \$50 registration fee would have been an appropriate amount to require to track and maintain such files.

Staff recommends in favor of the Zoning Ordinance amendment as presented.

Environmental Impact:

N/A

Fiscal Impact:

N/A

Prior Actions:

N/A

Alternatives:

- (a) Approve the Zoning Ordinance amendment as submitted; or
- (b) Deny the Zoning Ordinance amendment.

Community Engagement:

As required, the request was published in the local newspaper twice advertising for Planning Commission’s public hearing and twice advertising for the City Council’s public hearing. The advertisement was published as shown below:

Zoning Ordinance Amendment – Modify Civil Penalties and Remove Registration Requirements for Short-Term Rentals

Public hearing to consider modifying the Zoning Ordinance Section 10-3-13 Penalties. This section specifies the penalties for violations of the Zoning Ordinance. Currently, this section states that operating a short-term rental in violation of Section 10-3-205, which is associated with general regulations for short term rentals, shall be punishable by a civil penalty. The proposed amendments would eliminate the reference to Section 10-3-205 and replace it with the phrase “the Zoning Ordinance” so that any short-

term rental operating in violation of the Zoning Ordinance shall be punishable by a civil penalty. In addition, an amendment is proposed to remove the requirements for short term rental operators to annually register the use and to pay a registration fee as currently described in Section 10-3-204, which is associated with registering the short term rental operation. This amendment would not eliminate the requirement for all short-term rental operators to obtain a one time special use permit for properties on which they want to operate.

In addition, a notice was provided on the City's website at <https://www.harrisonburgva.gov/public-hearings>.

Recommendation:

Staff recommends alternative (a) approval of the Zoning Ordinance amendment request as submitted.

Attachments:

1. Planning Commission Extract
2. Proposed zoning ordinance amendments (2 pages)

Review:

Planning Commission recommended approval (6-0) of the Zoning Ordinance amendment request as submitted.